

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

PREAMBLE

1. **Sections Affected**

R3-2-407	<u>Rulemaking Action</u>
R3-2-612	Amend
R3-2-615	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 3-107 and 3-1203

Implementing statute: A.R.S. §§ 3-1203 and 3-1205
3. **The effective date of the rules:**

February 4, 1998
4. **A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Rulemaking Docket Opening: 3 A.A.R. 2308, August 22, 1997

Notice of Proposed Rulemaking: 3 A.A.R. 3180, November 14, 1997

Notice of Public Hearing on Proposed Rulemaking: 3 A.A.R. 3182, November 14, 1997
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Shirley Conard, Rules Specialist
Address:	Arizona Department of Agriculture 1688 West Adams, Room 124 Phoenix, Arizona 85007
Telephone:	(602) 542-0962
Fax:	(602) 542-5420
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

This rulemaking clarifies existing language and changes entry requirements for native ranch cattle from brucellosis Class-Free states, dairy cattle, and horses being shipped into Arizona.

R3-2-407. Equine Infectious Anemia. This rulemaking updates existing language in this Section for clarity and the only change made is in subsection (A) which includes a 2nd, and somewhat faster, test for testing equine for equine infectious anemia. Subsection (B) requires that testing laboratories notify the State Veterinarian immediately; requires the retesting of equine by the State Veterinarian; requires positive equine to be branded by the State Veterinarian within 14 days of testing positive; and to be humanely destroyed, shipped to slaughter or quarantined in a screened stall. Subsection (C) gives the State Veterinarian the option of requiring testing of any equine exposed to positive equine. The expenses for this testing will be borne by the owner.

R3-2-612. Importation of Cattle and Bison. Subsection (C)(2), adds an option for shipment of "F" branded cattle in designated feedlots to other states. Subsection (C)(3), eliminates the pre-movement brucellosis test requirement for native ranch cattle originating from a brucellosis Class-Free state and specifies the certificate requirements for the movement. Subsection (C)(4), eliminates the post-movement brucellosis test requirement for dairy cattle unless the State Veterinarian determines it is necessary. The pre-movement brucellosis test is still required in subsections (C)(1) and (C)(2). Subsection (C)(7), requires owners to ensure that the identification on imported dairy cattle is checked against that listed on health certificates within 7 days after importation; report any discrepancies to the State Veterinarian; and test those not documented on health certificates for brucellosis within 1 week and tuberculosis 60 days after arrival.

R3-2-615, Equine Importation. This Section requires that all equine 6 months of age or older imported into Arizona be tested negative for Equine Infectious Anemia within 12 months before entry. Equine with poll evil or fistulous withers (brucellosis of the horse) are a disease risk to cattle, other horses and people, and Arizona has no facility to slaughter horses, therefore, subsection (C) removes the wording allowing equine to be slaughtered, and prohibits the importation of equine with poll evil.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable.

8. The summary of the economic, small business, and consumer impact:

This rulemaking clarifies existing language and changes requirements for native ranch cattle, dairy cattle, and horses being shipped into Arizona.

A. Estimated Costs and Benefits to the Arizona Department of Agriculture.

There will be no significant additional cost to the Department for administering these rules. The 2 approved tests mentioned in subsection (A) (the Coggins and the CELISA test) have approximately the same costs and will not add additional costs to the user. Although R3-2-407 requires retesting of positive equine by the State Veterinarian or the State Veterinarian's designee with the cost being borne by the state, this procedure has been standard practice for well over a decade. R3-2-615 adds a test for Equine Infectious Anemia prior to the importation of equine. This will require some additional time in monitoring and enforcing compliance with the regulation and is estimated to be less than 6 hours per month by existing staff. Entry health certificates are already reviewed by Department staff. The additional time required for monitoring will be for making telephone contact with violators, writing letters of warning to violators and issuing veterinarians that issue the health certificates, and for on-farm compliance visits by Department personnel.

The benefits to the Department for the proposed rules results from contributing to the successful fulfillment of the Department's mandate to protect the livestock industry from contagious diseases, such as Equine Infectious Anemia. In addition, R3-2-612 eliminates the pre-importation test requirement for brucellosis testing of breeding cattle that are native to a brucellosis Class Free State, unless they have originated from a state with infected free-ranging bison or wildlife, and the post-importation test requirement for dairy cattle unless the State Veterinarian determines that there is a potential risk of the introduction of brucellosis. This relaxation of test requirements will reduce the number of staff hours devoted to monitoring compliance with the previous requirements.

B. Estimated Costs and Benefits to Political Subdivisions.

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. Businesses Directly Affected By the Rulemaking.

The rules impact both the cattle and equine segments of the livestock industry. The primary impact to the equine industry is the additional test requirement for Equine Infectious Anemia for imported horses in R3-2-615. Horse owners will be required to test their animals prior to movement into Arizona. The financial impact of this proposed rule will be through the veterinary fees associated with collection of samples and the laboratory costs for the test. These costs will be borne by the horse owner in the state of origin and are estimated to be about \$20 - \$30 per animal. Arizona imports between 10,000 and 15,000 horses per year. At least 75% of these are already tested because every other state in the U.S. requires this test for importation. In fact, many states require this test to move within their state. The estimated initial financial impact of this rule is estimated to be \$50,000 - \$100,000 per year with the cost being borne by horse owners in other states.

The benefits to the equine industry for this test requirement results from the reduction in the number of horses imported with Equine Infections Anemia and through the reduction of risk to Arizona horses from exposure to infected horses. The Department detects, on average, 2-6 positive animals per year. Positive animals are detected after being tested in preparation for transport to other states - all other states require a negative test for importation. These positive horses are destroyed or sent to slaughter. This is an estimated direct loss of \$2,000 - \$60,000 per year depending on the value of the animal. In addition, indirect losses may result after destruction as a result of loss in future breeding and performance use of the horse. The positive horses have usually spent some time in Arizona potentially exposing other horses. Although Arizona is generally not known to be a state where there is a high rate of horse-to-horse transmission due to a lower number of insect vectors, transmission does occur.

The financial benefits to the dairy and beef cattle industry result from a decrease in level of testing for brucellosis without significantly increasing the risk of brucellosis introduction. The owners of breeding beef cattle that are native to a brucellosis Class Free State will not have to test prior to movement into Arizona. This will save the industry an estimated \$1.00 to \$50.00 per head, depending on numbers tested at 1 time, in veterinary costs. The dairy industry in Arizona benefits financially from the elimination of the post-importation test requirement, unless a significant risk is determined by the State Veterinarian. This will save the Arizona dairy industry an estimated \$1 to \$50 per head, again depending on the numbers tested at 1 time, and indirect savings as a result of no loss in production due to handling of cattle for testing.

D. Estimated Costs and Benefits to Private and Public Employment.

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. Estimated Costs and Benefits to Consumers and the Public.

Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking.

F. Estimated Costs and Benefits to State Revenues.

This rulemaking will have no impact on state revenues.

9. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Clarification changes were made at the request of G.R.R.C. staff, however no substantive changes were made. The following changes were made at the Council meeting:

Removing the words "of the positive identification" and replacing with "of exposure" in R3-2-407(C);

Removing a typographical error in R3-2-612(A);

Deleting the proposed language in R3-2-612(C)(4) and (C)(5), and inserting the following language, and renumbering the remainder of subsections:

4. No brucellosis test is required for native ranch cattle from a brucellosis Class-Free state, that does not have free-ranging brucellosis-infected bison or wildlife, being moved directly from the ranch of origin to the Arizona destination and the USDA metal eartag numbers are listed on a health certificate.

5. No brucellosis test is required for native ranch cattle unless from a state that has a brand inspection program approved by the State Veterinarian and the USDA metal eartag numbers are listed on a health certificate or the owner's brand is listed on a brand inspection certificate.

4. If native ranch cattle are from a brucellosis Class-Free state that does not have free-ranging brucellosis infected bison or wildlife, no brucellosis test is required when:

a. The native ranch cattle are moved directly from the ranch of origin to an Arizona destination and the USDA metal eartag numbers are listed on a health certificate; or

b. The native ranch cattle are from a state that has a brand inspection program approved by the State Veterinarian and the owner's brand is listed on a brand inspection certificate or health certificate.

Clarifying the language in R3-2-612(C) by adding "and tuberculosis" after "shall be tested for brucellosis", inserting a period after "receiver" and removing the remainder of the sentence.

10. A summary of the principal comments and the agency response to them:

Not applicable.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None.

12. Incorporations by reference and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

Section
R3-2-407. Equine infectious anemia Infectious Anemia

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS

Section
R3-2-612. Importation of Cattle and Bison
R3-2-615. Requirements for importation of horses, mules
asses (equines) Equine Importation

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL

R3-2-407. Equine infectious anemia Infectious Anemia

A. Diagnostic test. ~~The agar-gel immunodiffusion test, otherwise known as the Coggins Test (herein referred to as "Test for EIA"), shall be the state of Arizona official test for equine infectious anemia (also known as Swamp Fever, and herein referred to as "EIA"). The test for EIA shall be performed in a laboratory approved by the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture. Samples required in connection with such test shall be drawn by an accredited veterinarian. The Arizona official test for equine infectious anemia, known as Swamp Fever or EIA, is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS and required~~

Arizona Administrative Register
Notices of Final Rulemaking

samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or a USDA APHIS veterinarian.

- B. Equine(s) not in compliance with testing requirements**
1. All equine animals tested positive shall be destroyed by the owner or shipper, or returned to the point of origin, or handled under Arizona E.I.A. Quarantine.
 2. Health certificates stating that the E.I.A. test is pending will not exempt the horse from quarantine.
 3. All animals less than 12 months of age which react positively to an official test may be retested at 12 months of age before being declared positive.
- C. Recommended disposal of equine testing positive.**
1. When an Arizona equine is determined by an approved laboratory to be tested tests positive to Equine Infections Anemia (EIA), the owner, veterinarian who sent in the blood sample and the state regulatory veterinarian the State Veterinarian shall all be notified by the testing laboratory immediately by telephone.
 2. The EIA positive horse equine shall be quarantined to the premises or areas designated or prescribed where tested, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian until released therefrom by order of the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or a USDA APHIS veterinarian.
 3. Within 14 days of testing positive, the equine shall be branded by the State Veterinarian on the left side of the neck with "86A" not less than 2 inches in height.
 3. 4. The animal EIA positive equine may be put to death by humane methods and the carcass disposed of as the Department directs, humanely destroyed, or delivered for consigned to slaughter to at a slaughtering establishment, or confined to a screened stall marked "EIA Quarantine" at least 200 yards from other equine. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals form, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or a USDA APHIS veterinarian.
 4. The animal to be completely segregated from all other equines in a screened stall or enclosed at a minimum of 200 yards from other horses so as to prevent infection of other equines by biting insects.
 5. If the animal is not destroyed, it shall be branded on the left side of the neck or jaw with the number "86" followed by the letter "A" in figures not less than two inches in height.
 6. 5. At the time a quarantine under this Section is effective, and the EIA positive equine is located on premises other than those of the owner, the Department State Veterinarian may authorize removal movement of such the EIA positive equine to the owner's premises for further quarantine. If the owner lives in another state, the animal equine may be moved to that state with the permission of the Chief livestock health official of the state and A.P.H.I.S., U.S.D.A. USDA APHIS.
- C. The State Veterinarian may require testing of any equine exposed to EIA positive equine within the last 6 months of exposure. Expenses for this testing shall be paid by the owner.**
- D. Compensation.** The owner of any equine animal found to be positive to the test for EIA shall not be indemnified for any loss caused by the destruction and loss of value of such animal the equine.

**ARTICLE 6. HEALTH REQUIREMENTS GOVERNING
ADMISSION OF ANIMALS**

R3-2-612. Importation of Cattle and Bison

- A.** The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in R3-2-602 through R3-2-611 and the following conditions:
1. Pay the expenses incurred to quarantine, test, and retest the imported cattle or bison.
 2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies a USDA metal eartag to each animal.
- B.** Arizona shall not accept:
1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
 - a. Steers and spayed females, and
 - b. Animals shipped directly for immediate slaughter to an official state or federal slaughter establishment;
 2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot, or to a quarantine pen approved by the State Veterinarian at an export station approved by the USDA;
 3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class Free State, or without tuberculosis status comparable to an Accredited-Free State;
 4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
 5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- C.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. The owner or owner's agent shall ensure that an official calfhood vaccinate is tested negative for brucellosis within 30 days before entering Arizona if the official calfhood vaccinate is:
 - a. 18 months or older,
 - b. Cutting the 1st set of permanent incisors, or
 - c. Parturient or postparturient.
 2. The owner or owner's agent shall ensure that bulls and non-vaccinated heifers test negative for brucellosis if 12 months of age or older, unless consigned for feeding purposes to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All cattle "F" branded cattle or bison that leave the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot or be shipped to another state with the permission of the State Veterinarian in the state of destination.
 3. No brucellosis test is required for cattle or bison originating from a Certified Brucellosis-Free Herd if the herd certification number is documented on the health certificate and import permit.
 4. If native ranch cattle are from a brucellosis Class-Free state that does not have free-ranging brucellosis infected bison or wildlife, no brucellosis test is required when:

- a. The native ranch cattle are moved directly from the ranch of origin to an Arizona destination and the USDA metal eartag numbers are listed on a health certificate; or
 - b. The native ranch cattle are from a state that has a brand inspection program approved by the State Veterinarian and the owner's brand is listed on a brand inspection certificate or health certificate.
5. Health and brand inspection certificates issued for the movement shall be forwarded to the State Veterinarian in Arizona within 2 weeks of issue.
- 4-6. The owner or owner's agent shall ensure that beef breeding cattle or breeding bison from Class A states; and dairy cattle from Class A states or stockyard auctions in Class-Free States; remain under import quarantine and isolation until tested negative for brucellosis not earlier than 45 days nor later than 120 days after entry. Dairy cattle shall be retested only if the State Veterinarian determines that there is a potential risk of the introduction of brucellosis in the state. Exceptions to this import quarantine and brucellosis testing are provided for native ranch cattle in an adjacent or Class A State and for official calfhood vaccinates less than 18 months of age if permission is granted by the State Veterinarian.
- 5-7. The owner or owner's agent shall notify the State Veterinarian within 7 days of moving beef breeding cattle; or breeding bison; and dairy cattle under import quarantine from the destination listed on the import permit and health certificate, unless the animals are shipped directly to an official state or federal slaughter establishment for immediate slaughter, and shall notify the State Veterinarian at the time animals under import quarantine that are not moved from the destination are retested for brucellosis.
- 6-8. Beef breeding cattle, breeding bison, and dairy cattle meeting the criteria of subsections (C)(1) or (C)(2) and not meeting the criteria of subsection (C)(3) may be imported without a brucellosis test if moved to an specifically approved stockyard and tested before sale or movement from the stockyard. The owner or owner's agent shall not commingle these cattle or bison with other cattle or bison until these cattle or bison are tested and found to be brucellosis negative.
9. Within 7 days after importation, the owner or owner's agent shall ensure that the individual metal eartag identification for imported dairy cattle is the same as that listed on the health certificate and shall report any discrepancies to the State Veterinarian. Any dairy cattle shipped into Arizona not documented on the health certificate shall be tested for brucellosis and tuberculosis by the receiver within 1 week of arrival.
- D. Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.
1. Before entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 92.424 through 92.427, January 1, 1996, edition, as amended at 60 FR 13898, 13900, March 15, 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
 2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis not earlier than 60 days nor later than 120 days after entry into Arizona, and again 30 days after calving, unless consigned to a designated feedlot. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that metal eartag identification records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
- E. Except for the following, all female dairy cattle 4 months of age or older, imported into Arizona, shall be official calfhood vaccinates, properly identified, certified, and legibly tattooed:
1. Show cattle for exhibition,
 2. Cattle from a Certified Brucellosis-Free Herd with permission of the State Veterinarian,
 3. Cattle from a brucellosis-free state or country with permission of the State Veterinarian,
 4. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
 5. Cattle consigned for feeding purposes to a designated feedlot under import permit.
- F. When imported breeding cattle, breeding bison, or dairy cattle under import quarantine and isolation are sold at a specifically approved stockyard, the owner or owner's agent shall, at the time of the sale, identify those cattle to the new owner as being under import quarantine. If market cattle identification testing for brucellosis is conducted at the auction, the owner or owner's agent shall ensure that the cattle or bison are tested before the sale. The new owner shall segregate the cattle or bison and retest for brucellosis 45 to 120 days after the animals entered the state.
- G. Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. No tuberculosis test is required for:
 - a. Beef breeding cattle, breeding bison, or dairy cattle from an accredited herd if the herd accreditation number is documented on the health certificate and import permit;
 - b. Native commercial and purebred beef breeding cattle from an Accredited-Free States if its accredited-free status is documented on the health certificate; and
 - c. Steers and spayed heifers.
 2. Unless from an accredited herd, prescribed in subsection (G)(1), the owner or owner's agent shall ensure that purebred beef breeding cattle from modified accredited states, breeding bison, dairy females, and bulls for breeding dairy cattle test negative for tuberculosis within 60 days before entry into Arizona.
- H. Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.

Arizona Administrative Register
Notices of Final Rulemaking

1. Before entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 92.424 through 92.427, incorporated by reference in subsection (D)(1).
2. Steers and spayed heifers from states or regions in Mexico that have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico shall not enter the state.
3. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without prior permission of the State Veterinarian.
4. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:
 - a. Tested negative for tuberculosis in accordance with procedures equivalent to the Bovine Tuberculosis Eradication – Uniform Methods and Rules within 60 days before entry into the United States, or
 - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
6. Beef breeding cattle and breeding bison from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication or Free Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona if they remain under import quarantine and isolation until retested negative for tuberculosis in accordance with the Bovine Tuberculosis Eradication – Uniform Methods and Rules, not earlier than 60 days, nor later than 120 days after entry unless consigned to a designated feedlot for feeding purposes only. Unless neutered, all beef breeding cattle or breeding bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless permission is granted by the State Veterinarian to apply the "F" brand on arrival. All beef breeding cattle or breeding bison leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that metal eartag identification

records are kept on all incoming consignments and submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all beef breeding cattle and breeding bison leaving the designated feedlot. A copy of the form shall accompany the cattle and bison to slaughter and a copy shall be submitted to the State Veterinarian.

I. Bovine scabies requirements.

1. The owner or owner's agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under permit number and seal for immediate slaughter at an official state or federal slaughter establishment.
2. The owner or owner's agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, January 1, 1996, edition, as amended at 56 FR 52463, October 21, 1991, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise a veterinarian's examination and certification shall be sufficient.

R3-2-615. Requirements for importation of horses, mules asses (equines) Equine Importation

- A. Equines Except for R3-2-607, equines may enter the state of Arizona in conformity with as prescribed in R3-2-602 through R3-2-611. (Except R3-2-607)
- B. Slaughter equines must Equines shall be individually identified on the health certificate by age, sex, breed, color, name, brand, tattoo, scars and distinctive markings, unless they are "S"-branded at the tailhead and so specified for identification purposes. Such slaughter animals are to be shipped only to a recognized horse slaughtering plant or an approved feedlot for slaughter horses.
- C. Equines with fistulous withers or pole evil may poll evil shall not be imported by special permit/permission, or for slaughter only.
- D. All equine 6 months of age or older shall, using a test established in R3-3-407(A), be tested negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner. The health certificate shall contain:
 1. The date and results of the test;
 2. The name of the testing laboratory; and
 3. The laboratory generated accession number.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

PREAMBLE

1. Sections Affected

Article 1	<u>Rulemaking Action</u>
R20-8-101	New Article
R20-8-102	New Section
R20-8-103	New Section
R20-8-104	New Section
Article 2	New Article
R20-8-201	New Section
R20-8-202	New Section
R20-8-203	New Section
R20-8-204	New Section
2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 41-1554.04

Implementing statutes: A.R.S. §§ 41-1554.04, 41-1554.05 and 41-1554.06
3. The effective date for the rules:

February 3, 1998
4. A list of all previous notices appearing in the Register addressing the final rule:

Notice of Docket Opening: 3 A.A.R. 3044, October 31, 1997

Notice of Proposed Rulemaking: 3 A.A.R. 3109, November 7, 1997
5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Carol Sanger, Executive Director

Address: Greater Arizona Development Authority
3800 North Central Avenue, Suite 1650
Phoenix, Arizona 85012

Telephone: (602) 280-1360

Fax: (602) 280-8125
6. An explanation of the rule, including the agency's reasons for initiating the rule:

During its 1997 session, the Arizona State Legislature established the Greater Arizona Development Authority for the purpose of making funds available to provide technical assistance to infrastructure projects of political subdivisions, Indian tribes, and special districts, and financial assistance for infrastructure projects of political subdivisions and Indian tribes. These proposed rules are necessary to effect that statutory purpose.

A.R.S. § 41-1554.04 provides that the Greater Arizona Development Authority (Authority) shall establish application forms for technical and financial assistance, a procedure to review and approve or disapprove applications for technical and financial assistance, criteria by which technical and financial assistance will be awarded, and a means to prioritize applications for technical and financial assistance. A.R.S. § 41-1554.05(C) provides that the Authority shall establish an application process and method of determining the allocation of technical assistance in accordance with A.R.S. § 41-1554.04. Finally, A.R.S. § 41-1554.06 provides for a number of requirements that applicants for financial assistance must meet to receive financial assistance from the Authority.
7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

The rule does not diminish a previous grant of authority to a political subdivision of this state.
8. The summary of the economic, small business, and consumer impact:

The impact is expected to be positive. While small business and consumers may have user rates and fees increased to pay for the new infrastructure financed by the Greater Arizona Development Authority, the net effect is expected to be positive for 3 reasons:

(1) The projects will be developed more quickly with GADA participation, thereby accelerating the benefits to the local community.

Arizona Administrative Register
Notices of Final Rulemaking

- (2) The Authority will provide financial support and technical assistance to local communities for infrastructure development.
- (3) The projects will be financed at a lower interest rate that will be passed on to local taxpayers in the form of lower user fees or taxes.

GADA borrows money from the public debt markets at lower rates than most Arizona communities can obtain on their own. GADA gets lower rates because, in addition to pooling together multiple borrowers into 1 issue, GADA provides 3 levels of security to investors:

- (1) The pledge of the GADA fund.
- (2) For a political subdivision, an intercept of state shared revenues. For an Indian tribe, the pledge of a dedicated revenue source subject to suit by the Attorney General, or assets subject to execution by the Attorney General without the waiver of any claim of sovereign immunity.
- (3) The pledge of principal and interest payments from the loans GADA makes to Arizona communities.

The GADA Fund is funded by a 3-year appropriation from the General Fund as follows:

\$2.8 million in FY 97-98

\$8.0 million in FY 98-99

\$9.0 million in FY 99-00

These funds remain in the state under the investment control of the State Treasurer's Office. Together with the security mentioned above, the \$19.8 million is expected to support approximately \$100 million in financing that will be used for infrastructure projects in Arizona.

Because of the wide range of possible projects with varying local impacts, it is difficult to estimate or generalize about the potential economic impact of the Authority. It can be said that the Authority's beneficial contribution will be in the acceleration of the development of necessary projects. In some cases, the acceleration may be 2 years, in other cases, longer. This allows the community to begin utilizing this benefit at an earlier date to improve the economic well being of its residents and improve the overall quality of life.

9. A description of the changes between the proposed rules including supplemental notices and final rules:

There are 35 changes to the proposed rules that were adopted by the Board. These are detailed in the Concise Explanatory Statement that forms part of this package. Twenty-nine of the proposed changes are being made for purposes of spelling, grammar, or to ensure parallel construction between the sections on technical assistance and financial assistance.

Of the 6 remaining changes, #5 and #27 of the Concise Explanatory Statement are being made to reflect the fact that the Authority cannot require the Department of Commerce to undertake economic analyses. However, the Department of Commerce is required by A.R.S. § 41-1504 (A)(4) to provide this kind of information to state agencies on request. R20-8-104(B) in the technical assistance section and R20-8-204(B) in the financial assistance section have been reworded to reflect the powers and duties of the Department of Commerce more accurately.

Change #7 of the Concise Explanatory Statement is required to delete "ability" and replace it with "inability" in R20-8-104(C)(1). This is required to correct a poor grammar choice on the part of the writer. The word "inability" is consistent with the rest of the sentence.

Changes #17 and #35 of the Concise Explanatory Statement reflect the need to establish clear time limits for the Authority to communicate its decision in the event of a protest. The recommendation of GRRC staff was to include language establishing a 30-day requirement. This has been inserted in both the technical assistance section, R20-8-104(G)(4) and the financial assistance section, R20-8-204(G)(4).

The final change is #25 of the Concise Explanatory Statement, R20-8-202(D)(6), where the words "within the last 12 months" have been deleted. By requiring applicants for GADA's financial assistance to obtain voter authorization within the last 12 months of their application, this rule places an inappropriate burden on the political subdivisions, a burden that is not imposed by either the Water Infrastructure Finance Authority or the State Transportation Board. It was never the intent of the legislature that GADA's rules or policies should require more stringent voter authorization than what is provided for in the statute. By deleting the 12-month requirement, GADA is consistent with similar programs and legislative intent.

10. A summary of the principal comments and the agency response to them:

The Agency received 1 written and no verbal comments prior to the close of record on December 10, 1997. The City of Winslow noted that the potential for re-financing current bonds is not specifically covered in the proposed rules. The Agency response is that the statute defining the permissible activities of the Greater Arizona Development Authority, A.R.S. § 41-1554.02(B), does not confer the authority to re-finance current bonds of a political subdivision or Indian tribe. The Agency cannot establish rule provisions for an authority or power it does not have.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

12. Incorporations by reference and their location in the rules:
Not applicable.

13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 8. GREATER ARIZONA DEVELOPMENT AUTHORITY

ARTICLE 1. TECHNICAL ASSISTANCE

Section

- R20-8-101. Definitions
- R20-8-102. Application Process
- R20-8-103. Eligibility Criteria
- R20-8-104. Priority; Approval and Disapproval; Protest

ARTICLE 2. FINANCIAL ASSISTANCE

- R20-8-201. Definitions
- R20-8-202. Application Process
- R20-8-203. Eligibility Criteria
- R20-8-204. Priority; Approval and Disapproval; Funding; Protest

ARTICLE 1. TECHNICAL ASSISTANCE

R20-8-101. Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. "Administratively complete" means that an applicant has completed the application for technical assistance and provided all of the required information.
2. "Applicant" means a political subdivision, special district, or Indian tribe that applies to the Authority for technical assistance.
3. "Authority" means the Greater Arizona Development Authority.
4. "Board" means the board of directors of the Authority.
5. "Economic overview" means an economic analysis that establishes the economic context for a project based on public data and information provided by the applicant.
6. "Infrastructure" means any facility located in this state for public use owned by a political subdivision, special district or Indian tribe that retains responsibility for its operation and maintenance.
7. "Project" means the whole, or any distinguishable segment or segments, of publicly owned infrastructure for which technical assistance is being requested or provided.
8. "Staff" means the Executive Director and the Finance Director of the Authority.
9. "Technical assistance round" means a period of time established by the Board during which applications for technical assistance are sent to potential applicants, returned to the Authority, analyzed by Staff, and submitted to the Board for approval or disapproval.

R20-8-102. Application Process

- A. The Board shall annually establish a due date by which applications for technical assistance shall be submitted for each technical assistance round, and the number of technical assistance rounds to be held in a given state fiscal year.
- B. The Authority shall send solicitation letters to potential applicants at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be

placed on a mailing list to be utilized by the Authority in sending out solicitation letters.

C. An applicant shall provide the following information to the Authority by the established due date for such applications on a form provided by the Authority:

1. Contact information for the applicant, including name, address, and telephone number;
2. A description of the kind of technical assistance being requested and an estimate of the cost of the technical assistance;
3. A detailed description of the project;
4. The estimated starting date, completion date, and projected cost of the infrastructure project for which the technical assistance is being requested;
5. The projected sources and uses of funds for the infrastructure project, including public and private in-kind contributions; and
6. A list of professional and outside service providers, including their professional qualifications, who have worked on any part of the project.

D. In addition to the application required in subsection (C), an applicant shall provide the following information to the Authority by the established due date for such applications:

1. A planning document specific to the locality of the project for which the technical assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, or similar planning document;
2. If the project is listed on the project priority list of the Water Infrastructure Finance Authority or on the Department of Transportation's Five-Year State Plan, a document evidencing this fact; and
3. A resolution from the governing body of the applicant stating the following:
 - a. The project is in the best interests of the residents;
 - b. The estimated economic impact on the community; and
 - c. The commitment of local funds, if applicable; and
4. The applicant's most recent financial statements.

E. Staff shall analyze each application received on or prior to the due date for applications for technical assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-103. Applications for technical assistance which are determined to be both administratively complete and eligible for technical assistance under R20-8-103 shall be submitted to the Board for prioritization and possible funding. Applications which are either not administratively complete or do not meet the criteria in R20-8-103 shall be submitted to the Board with a recommendation that they be disapproved.

R20-8-103. Eligibility Criteria

To be eligible to receive technical assistance, an applicant shall satisfy the following criteria:

Notices of Final Rulemaking

1. The applicant is a political subdivision, Indian tribe, or special district;
2. The technical assistance requested is for the development or financing of an infrastructure project;
3. The application is administratively complete;
4. The applicant provides evidence that the project has public support;
5. The applicant provides evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, a local strategic plan, or similar planning document;
6. The applicant has the capacity to provide managerial support to the project; and
7. The cost of the technical assistance does not exceed 10% of the total cost of the final project.

R20-8-104. Priority; Approval and Disapproval; Protest

- A. The Board shall disapprove an application for technical assistance which does not meet the eligibility criteria in R20-8-103.
- B. The Authority shall request the Department of Commerce prepare an economic overview for each of the projects eligible for technical assistance that establishes the economic context for the project.
- C. During each technical assistance round, the Board shall determine the order and priority of infrastructure projects for which an eligible application for technical assistance has been received based on the following factors listed below in order of importance. A project shall be given a higher priority to receive technical assistance for each of the following:
 1. The project has been determined to be a likely candidate for future financial assistance from the Authority, based upon an assessment made at the time of the application by Staff of the applicant's inability to access lower cost funding from other sources;
 2. The project is close to construction and permanent financing; or
 3. There is evidence of a high degree of certainty of the project's economic benefits based on 1 or more of the following:
 - a. The economic overview prepared by the Department of Commerce;
 - b. Partnerships, to the extent that they exist, both public and private, providing financial and in-kind services, in support of the project; or
 - c. The public support.
- D. The Board shall approve or disapprove each application for technical assistance based upon the priority list and available funding for technical assistance. The Board may fund all or a portion of a technical assistance request.
- E. The Authority shall mail the Board's written determination to each applicant within 90 days after the date that all applications for technical assistance were due.
- F. For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide technical assistance expires. The Authority shall not provide technical assistance for an approved project if the applicant does not complete all agreements with the Authority on or before that date.
- G. An applicant whose project for technical assistance is disapproved may file a protest with the Board as follows:
 1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairperson of the Board, with a copy to the Executive Director of the Authority.

2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. Staff shall distribute a copy of the response to the Board.
3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. Staff shall schedule the presentation for the next regular Board meeting.
4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for technical assistance. Within 30 days after the presentation, the Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for technical assistance.

ARTICLE 2. FINANCIAL ASSISTANCE

R20-8-201. Definitions

In addition to the definitions prescribed in A.R.S. § 41-1554, the following definitions apply in this Article:

1. "Administratively complete" means that an applicant has completed the application for financial assistance and provided all of the required information.
2. "Applicant" means a political subdivision or Indian tribe that applies to the Authority for financial assistance.
3. "Authority" means the Greater Arizona Development Authority.
4. "Board" means the board of directors of the Authority.
5. "Dedicated revenue source" means the origin of money committed by an Indian tribe to be used for repayment of a loan.
6. "Economic evaluation" means a detailed economic analysis based on public data and information provided by the applicant.
7. "Financial assistance round" means a period of time established by the Board during which applications for financial assistance are sent to potential applicants, returned to the Authority, analyzed by Staff, and submitted to the Board for approval or disapproval.
8. "Infrastructure" means any facility located in this state for public use owned by a political subdivision, special district or Indian tribe that retains responsibility for its operation and maintenance.
9. "Pledged revenues" means any monies to be received by a political subdivision, including property taxes, other local taxes, fees, assessments or charges pledged by a political subdivision as a source for repayment of a loan repayment agreement.
10. "Project" means the whole, or any distinguishable segment or segments, of publicly owned infrastructure for which financial assistance is being requested or provided.
11. "Staff" means the Executive Director and the Finance Director of the Authority.

R20-8-202. Application Process

- A. The Board shall annually establish a due date by which applications for financial assistance shall be submitted for each financial assistance round, and the number of financial assistance rounds to be held in a given state fiscal year.
- B. The Authority shall send solicitation letters to potential applicants at least 60 days before applications are due. Other interested persons may submit requests to the Authority to be placed on a mailing list to be utilized by the Authority in sending out solicitation letters.

Arizona Administrative Register
Notices of Final Rulemaking

- C.** An applicant shall provide the following information to the Authority by the established due date for such applications on a form provided by the Authority:
1. Contact information for the applicant, including name, address, and telephone number;
 2. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the applicant's current fiscal year;
 3. Financial statements, audits, or comprehensive annual financial statements relating to the applicant for the previous 5 fiscal years;
 4. The proposed or estimated financial statement or budget, and business plan or management plan for the current and next fiscal years;
 5. A fee schedule for the applicable enterprise funds for the current and past 5 fiscal years if not included in response to subsections (C)(2), (3), and (4);
 6. The source of pledged revenues or dedicated revenue source to be used to repay the requested financial assistance;
 7. The amount of pledged revenues or money collected through the dedicated revenue source for each of the previous 5 fiscal years;
 8. An estimate of the amount of pledged revenues or money that will be collected through the dedicated revenue source for the current fiscal year;
 9. A projection of the amount of pledged revenues or money that will be collected through the dedicated revenue source for each of the next 5 fiscal years;
 10. A list of professional and outside service providers, including their professional qualifications, that are working or have worked on the project;
 11. An estimate of the project costs, including applicable planning, design, and construction costs, as well as estimated annual operation, maintenance, and replacement costs;
 12. An estimated schedule of required disbursements of the financial assistance; and
 13. Any information that may have a negative effect on the applicant's application, or on its financial condition, including material information relating to other projects undertaken by the applicant, pending lawsuits, and current investigations by state or federal authorities.
- D.** In addition to the application required in subsection (C), an applicant shall provide the following information to the Authority by the established due date for such applications:
1. Copies of documentation relating to outstanding indebtedness, including official statements, financial assistance agreements, and amortization schedules;
 2. A detailed description of the project, with an explanation of how the project complements the overall development of the community, including the following:
 - a. Copies of project feasibility studies, engineering reports, project designs, rate studies, and related material;
 - b. A detailed timeline for the project; and
 - c. A planning document specific to the locality of the project for which the financial assistance is being requested that includes the project, such as a capital improvement plan, local strategic plan, or similar planning document;
 3. A resolution of the governing body of the applicant stating the following:
 - a. The project is in the best interests of its residents;
 - b. The commitment of local funds, if applicable; and
 - c. If a political subdivision, then confirmation of the pledge of the state-shared revenues;
 4. For a political subdivision, a written commitment by its governing body to complete all applicable reviews and approvals and to secure all required permits in a timely manner;
 5. For a political subdivision, evidence of voter approval to incur debt in connection with the project:
 - a. If the election for voter authorization has been held, a copy of the ballot evidencing voter authorization for the debt in connection with the project and official action canvassing the results of the election;
 - b. If the election for voter authorization is scheduled to be held after the application date, sample ballot language and evidence of a plan to obtain voter authorization for the debt to be incurred in connection with the project;
 6. For a political subdivision, if voter approval has been obtained for substantially the same project but with a different funding source, evidence of that approval in lieu of that required by subsection (D)(5); and
 7. For an Indian tribe, evidence of the current or proposed establishment of a dedicated revenue source under the control of a tribally chartered corporation or other tribal entity subject to suit by the Attorney General, or evidence that additional assets that are subject to execution by the Attorney General without the waiver of any claim of sovereign immunity by the Tribe have been designated as additional security.
- E.** Staff shall analyze each application received on or prior to the due date for applications for financial assistance to determine whether the application is administratively complete and whether an applicant meets the eligibility criteria prescribed in R20-8-203. Applications for financial assistance which are determined to be both administratively complete and eligible for financial assistance under R20-8-203 shall be submitted to the Board for prioritization and possible funding. Applications which are either not administratively complete or do not meet the criteria in R20-8-203 shall be submitted to the Board with a recommendation that they be disapproved.
- R20-8-203. Eligibility Criteria**
To be eligible to receive financial assistance, an applicant shall satisfy the following criteria:
1. The applicant is either a political subdivision or an Indian tribe;
 2. The financial assistance requested is for an infrastructure project;
 3. The application is administratively complete;
 4. The applicant demonstrates that the financial assistance can be repaid and the level of security pledged to the loan is consistent with A.R.S. §§ 41-1554.06(D)(4) through A.R.S. § 41-1554.06(D)(6);
 5. The applicant demonstrates that the project is ready for construction and the applicant is ready to proceed;
 6. The applicant provides evidence that the project has public support;
 7. The applicant provides evidence that the project is part of an adopted comprehensive plan, for example, a capital improvement plan, local strategic plan, or similar planning document; and
 8. The applicant has the capacity to manage, construct, and operate the infrastructure project.

Arizona Administrative Register
Notices of Final Rulemaking

R20-8-204. Priority: Approval and Disapproval; Funding; Protest

- A. The Board shall disapprove an application for financial assistance which does not meet the eligibility criteria in R20-8-203.
- B. The Authority shall request the Department of Commerce prepare an economic evaluation for each of the projects eligible for financial assistance that analyzes the benefits and costs of the project.
- C. During each financial assistance round, the Board shall determine the order and priority of infrastructure projects for which an eligible application for financial assistance has been received based on the following factors listed below in order of importance. A project shall be given a higher priority to receive financial assistance for each of the following:
 - 1. The applicant demonstrates strong credit worthiness and ability to repay the obligation; for example, the applicant has a coverage ratio of at least 1 or a debt service reserve consisting of a set aside of 1 year of projected principal and interest payments;
 - 2. The applicant has little or no access to alternative funding sources that provide the same or lower interest rate as that provided by the Authority;
 - 3. There is evidence of a high degree of certainty of the project's economic benefits based on 1 or more of the following:
 - a. The economic evaluation prepared by the Department of Commerce;
 - b. Partnerships, to the extent that they exist, both public and private, providing financial and in-kind services, in support of the project; or
 - c. The public support; or
 - 4. The purpose of the project is for 1 or more of the following:
 - a. Public health or safety reasons;
 - b. Current identified infrastructure needs; or
 - c. Future identified infrastructure needs.

- D. The Board shall approve or disapprove each application for financial assistance based upon the priority list and available funding for financial assistance. The Board may fund all or a portion of a financial assistance request. Disbursement of funds to an approved applicant shall only occur upon the applicant's agreement with the terms and conditions established by the Board in accordance with A.R.S. § 41-1554.06.
- E. The Authority shall mail the Board's written determination to each applicant within 90 days after the date that all applications for financial assistance were due.
- F. For each approved project, the Authority shall establish a date by which the commitment of the Authority to provide financial assistance expires. The Authority shall not provide financial assistance for an approved project if the applicant does not complete all agreements with the Authority on or before that date.
- G. An applicant whose project for financial assistance is disapproved may file a protest with the Board as follows:
 - 1. The applicant shall submit its reasons for protesting the decision of the Board, in writing, within 20 days of the date of the Board's written determination, in a letter addressed to the Chairperson of the Board, with a copy to the Executive Director of the Authority.
 - 2. The Authority shall review the substance of the protest and respond, in writing, by mail, to the applicant, within 30 days. Staff shall distribute a copy of the response to the Board.
 - 3. Upon receipt of the Authority's written response, the applicant may request an opportunity to make a direct presentation to the Board. Staff shall schedule the presentation for the next regular Board meeting.
 - 4. Following the applicant's presentation, the Board shall decide whether to review the applicant's request for financial assistance. Within 30 days after the presentation, the Board shall, in writing, notify the applicant of its final decision regarding the applicant's request for financial assistance.